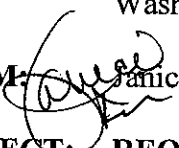




STATE OF WASHINGTON
DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENTAL HEALTH
PO Box 47820 • Olympia, Washington 98504-7820

June 15, 2005

TO: Washington State Board of Health

FROM:  Janice Adair, Assistant Secretary

SUBJECT: **REQUEST FOR DELEGATION, WAC 246-282-005,
SANITARY CONTROL OF SHELLFISH**

Chapter 69.30 RCW directs the State Board of Health to adopt rules governing the sanitation of shellfish, shellfish growing areas, shellfish processing, plant facilities, and shellfish operations in order to protect the public health. To that end, the State Board of Health has adopted chapter 246-282 WAC, *Sanitary Control of Shellfish*. Currently, these rules reference the U.S. Food and Drug Administration's (FDA) 1999 National Shellfish Sanitation Program (NSSP) Model Ordinance, which all shellfish producing states are required to follow in order to place molluscan shellfish into interstate commerce. FDA has now adopted a 2003 version of the Model Ordinance, leaving the current rules out of date.

The FDA oversees a cooperative program between the shellfish producing states and the shellfish industry for the production and processing of shellfish in a manner specified by the NSSP. The FDA evaluates each state's shellfish sanitation control program to ensure compliance with the NSSP. Therefore, an update to 246-282-005 is needed to assure that Washington State remains in compliance with the NSSP, and that molluscan shellfish products from the state can continue to be placed into interstate commerce.

We are proposing to adopt this national consensus code with no material changes; therefore we request that the board delegate the rule proposal and adoption process to the department. The shellfish industry actively participated in the development of this consensus document and needs the state to adopt the current version. In fact, many are likely following it already in order to be in compliance with the federal program. Because of the industry's active participation in the development of the Model Ordinance and the fact that they must follow it to successfully sell their product, the department does not anticipate any controversy or opposition to these changes, which are attached for your easy reference.

Please let me know if you have any questions. Thank you for your timely consideration of this request.

Attachment



WAC 246-282-005 Minimum performance standards. (1) Any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with and is subject to:

(a) The requirements of the ~~1999-2003~~ National Shellfish Sanitation Program (NSSP) Model Ordinance Guide for the Control of Molluscan Shellfish, published by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration (copies available through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington state department of health, office of food safety and shellfish programs);

(b) The provisions of 21 Code of Federal Regulations (CFR), Part 123 - Fish and Fishery Products, adopted December 18, 1995, by the United States Food and Drug Administration, regarding Hazard Analysis Critical Control Point (HACCP) plans (copies available through the U.S. Food and Drug Administration, Office of Seafood, and the Washington state department of health, office of food safety and shellfish programs); and

(c) All other provisions of this chapter.

(2) If a requirement of the NSSP Model Ordinance or a provision of 21 CFR, Part 123, is inconsistent with a provision otherwise established under this chapter or other state law or rule, then the more stringent provision, as determined by the department, will apply.